

REMARKS

Claims 27-28 and 38-56 currently remain in the application. Claims 27, 39, 42, 46, 49, 52 have been amended for the purposes of clarification and correct informalities, such as antecedent basis.

Applicant believes the claim amendments add no new matter.

Claim Objections

Claims 27 and 39 have been amended to correct the formalities identified by the Examiner.

Rejections under 35 U.S.C. § 102(e)

The examiner rejected claims 27-28, 38-42, 45-53 and 55-56 are rejected under 35 U.S.C. § 102(e) as being anticipated by Yoseloff (6,913,531).

For an anticipation rejection each and every limitation must be taught by the cited reference. The present claims describe limitations, as for example cited in claim 28, "displaying the list of games on the first gaming machine wherein a play of at least the first game in the list of games is only enabled after a download of the executable coding instructions for the first game from the second gaming machine and wherein the executable coding instructions allow the first master gaming controller to determine a first outcome for the first game in response to inputs made at the first gaming machine by a player including a wager on the first outcome" and "in response to receiving the game selection signal for the first game, transmitting information requesting the download of the executable coding instructions for the first game to the second gaming machine."

In regards to the limitations recited above, Examiner states,

"Yoseloff teaching that the gaming devices may obtain the program modules them from a network, such as the Internet, using a network browsing program module (analogous to a web browser) in 11:5-17. The recitation of "downloading" indicates that a program module is selected for transfer by a user, at which point a signal indicating the selection is sent to a second gaming device to begin the information transfer. Yoseloff does not use the term "list" of programs, but allows for multiple programs modules to be downloaded under the

control of the player. Such selective downloading indicates that a menu or list inherently present in Yoseloff's system."

In 11:5-17, Yoseloff only states, "In general, the network browsing program module is a tool used to interact with other computers over data networks, such as Internet and the World Wide Web. The network browsing program module is also a tool capable of using downloadable program modules, such as the puzzle control module, in order to direct operations of the personal computer." As examiner notes, Yoseloff doesn't describe "a list of games being displayed. Further, Yoseloff doesn't describe the content and function of the content to be downloaded or under what circumstances it is downloaded.

Applicant believes the Examiner may be improperly implying inherency in their rejection. The MPEP 2112, sec IV, states,

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish inherency of that result or characteristic. To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.

Applicant does not see how the limitations of the present claims, using the standard cited in the MPEP, "is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." Examiner has not provided reasoning that it necessarily present only that it may be present, in particular that there is some "indication" it may be present, which is not sufficient to establish anticipation. Thus, for this reason, Yoseloff can't be said to anticipate the pending claims.

Further, Yoseloff can't be said to anticipate the present invention because the embodiments in Yoseloff don't include a gaming machine, such as recited in claim 46, where the "gaming machine is operable to output an award associated with the outcome as the cash or the indicia of credit." One distinguishing feature of "casino type" gaming machines is that they are operable to recognize an instrument of value, such as cash or an indicia of credit and output an instrument of value, such as cash or an indicia of credit, which is redeemable for cash. The present invention describes casino type gaming machines with this capability. Yoseloff doesn't describe gaming machines with this capability. Thus, for also this reason, Yoseloff can't be said to anticipate the pending claims.

Further, Applicant wishes to point out that the embodiments in Yoseloff cited by the Examiner would not be recognized by one in the skill of the art as describing a

download of software between two "casino type" gaming machines. Independent of whether Yoseloff mentions casinos or uses terminology related to casinos, to make the reference applicable to the rejection, the Examiner, for the purposes of the rejection, should be able to point to teachings in the reference that indicate why one in the skill of the art would recognize the conventional personal type computer as a casino type gaming machine and that a download of executable coding instructions as described in the pending claims is being described. In the section 10:20-12:46 from which Examiner says that downloading between "peer" devices is described, the teachings describe conventional personal computers, such as one would use in a home environment and not in a casino, and the reference states a conventional personal computer is being described (10:43-45). Thus, it seems reasonable to view that Yoseloff is describing a transfer of some type involving two conventional personal computers.

A card game, which is the thrust of Yoseloff can be played on a conventional personal computer and a casino type gaming machine but a conventional personal computer is very different platform from a casino type gaming machine that may store and issue large sums of cash (or an instruments redeemable for cash). Conventional personal computers are not directly usable as casino type gaming machines and where components found in conventional personal computers are used in a casino environment they must be substantially modified. The Examiner doesn't point out nor does Yoseloff describe the modifications necessary to make the conventional personal computer usable in a casino type environment. Further, because of this lack of description in Yoseloff, Applicant believes that the teaching describing the embodiments regarding the conventional personal computer and the embodiment described in FIG. 1 are not necessarily applicable to one another. Thus, Applicant can't agree that Yoseloff teaches a download of executable coding instructions between two gaming machines as described in the pending claims or that one in skill of the art would recognize Yoseloff as including this teaching. Thus, for also this reason, Yoseloff can't be said to anticipate the pending claims.

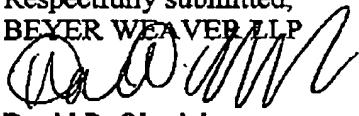
Rejections under 35 U.S.C. § 103

The examiner rejected claims 43 ad 54 are rejected under 35 U.S.C. § 103(a) as being unpatentable by Yoseloff (6,913,531) in view of Kelly (6,306,035).

The Examiner relies on Kelly in regards to identifying gaming machines in particular gaming jurisdictions. These teaching don't overcome the deficiencies described above in regards to Yoseloff. Therefore, for at least these reasons, the combination of Yoseloff and Kelly can't be said to render claims 43 and 54 obvious and the rejection is believed overcome thereby.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,
BEYER WEAVER LLP


David P. Olynick
Reg. No.: 48,615

P.O. Box 70250
Oakland, CA 94612-0250
Telephone (510) 663-1100